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George Babikian Replies to Arco Critics
How D&W Profits from Energy Conservation
Does Court Ruling Fuel Flat Rent Trend?

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How Three Jobbers Train Their Sons

NOJC Show Issue

NATIONAL PETROLEUM NEWS

NOVEMBER 1983 VOL. 75, NO. 11

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Passing on the business to the next generation can be enormously challenging and uniquely rewarding at the same time. *NPN* takes a close look at the Ruschhaupts of Fresno, Calif., the Griffiths of Stillwater, Okla., and the Parrishes of Manassas, Va., to find out how successful jobbers handle succession. Page 58

Cover design by Marcus Design, Inc.

Arco, with an impressive, if not enigmatic track record in recent times, has been the target of much industry criticism and skepticism. George Babikian defends his company's strategies up- and downstream. Page 29

Hampered by natural gas conversions, D&W Oil, Detroit, devoted itself to kerosine marketing and built an 'energy store' to harness the space heating and energy conservation trends for a company comeback. Page 66

• TRENDS

PMPA No Shield Against Sharp 'Flat Rent' Hikes

Fearful that oil companies would like to run their stations, lessee operators might have lost legal ground in a recent federal case involving protection against sharp rent hikes that often chase away dealers. And, refiners with an eye on independent dealers' profitable urban outlets might have cause for celebration.

In September, the U.S. District Court for eastern Pennsylvania in effect said that a lessee dealer can't use the Petroleum Marketing Practices Act (PMPA) to fight a rent increase. The case involved Amerada Hess and one of its lessee dealers. It hinged on the refiner's decision to change the way it determined the rents for its stations. That is, instead of basing rents on volume (as it had for years), Hess notified the dealer it henceforth would base them on the value of the property and station fixtures. For the dealer in question—one of 140 affected by the change—that meant a 130% rent increase. (It later was reduced by 20%)

Other oil companies besides Hess have been attempting to switch from the traditional industry practice of gallonage-based rentals to flat rentals, based on the market value of the land, buildings and improvements of a lessee station. Critics say the old system was often a disincentive to increasing sales volume, and the rentals received were often less than a property's market value. Arco, for one, has been moving towards so-called "economic" or flat rentals in its drive to achieve low-cost retail operations.

The Hess dealer, however, contested the move under PMPA provisions. He argued that the supplier required him to sign the new dealer agreement, despite its obvious financial consequences and that Hess acted "arbitrarily and discriminatorily" in changing its rent formula.

The court essentially ruled that Hess acted "in good faith" when it changed the way it charged rents. The decision was not aimed at any particular dealer or dealers, the court concluded, and it was made "in the normal case of business." The upshot: PMPA does not apply.

By upholding a refiner's right to change its method for determining rents under PMPA's "good faith" clause, the court has opened the door for many refiner/marketers, who covet profitable urban locations run by independent lessee marketers. When it comes to converting from lessee dealerships to direct-supplied outlets, urban units obviously are the most attractive candidates.

The ruling, however, didn't answer two important questions. First, is a change in rental policy allowed under PMPA when its effect is to force independent dealers out of profitable locations while at the same time, allowing them to continue in less valuable locations? And second, does PMPA permit switches in rental policy for some types of lessee outlets but not others?

The first of those questions, in fact, nearly came before the court in the Hess case. But before the judge in the case could issue his ruling, the dealer suing Hess dropped a complaint that the rent policy change was designed to force him and others out of business. It's a question that undoubtedly will be addressed sometime soon. Refiners, including most of the majors and many of the independents, have siezed on rents as a way to increase marketing revenues without increasing wholesale product prices. And, thanks to tough competition on the street, it's dealer and jobber margins that are squeezed when rents go up.

It is significant that in testimony in the Hess case, Hess officials said the new property value-based rent formula was recommended by the refiner's marketing department as a response to increasing costs and declining rental income (based, remember, on sales volume).

The district court's ruling also may have an adverse effect on marketers' ability to use PMPA to raise objections to the appraisals on which rents eventually may be based. The court said simply that differences in opinion over property values are not relevant concerns under PMPA. All that matters is that the refiner arrive at his policy for charging rent "in good faith."

In early October, it was not clear whether the Hess case ruling (Seicko vs. Amerada Hess Corp., No. 82-2088, ED Pa.) would be appealed, but it seemed unlikely. Attorneys familiar with PMPA say the decision offers meager grounds for appeal. They predict, however, that before the dust finally settles on the whole rental policy issue, there will be more suits under PMPA and federal antitrust statutes—including some class actions covering larger groups of marketers.

If the outcome of the Hess case is an indication of what the future holds, prospects for upcoming suits aren't very good.

—Thomas Goldsmith

• MARKETPLACE AT A GLANCE

AVERAGE GASOLINE PRICES IN THE U.S. (¢ per gal.)

AUGUST	Gasoline (All types)	Leaded Regular	Unleaded Regular	Leaded Premium
U.S. City Avg.	$1.269	$1.203	$1.285	$1.437
Regions:				
Northeast	1.272	1.206	1.275	NA
North Central	1.281	1.232	1.304	NA
South	1.232	1.162	1.248	NA
West	1.298	1.216	1.322	1.441

Source: U.S. Dept. of Labor, Bureau of Labor Statistics.

STOCKS (Add 000 bbl.)

	9/30/83	10/1/82
Gasoline (total)	231,344	236,705
Gasoline (unleaded*)	93,628	99,016
Kerosine **	34,643	33,699
Distillates	153,837	163,088
Residual	46,790	59,336

**Included in gasoline total.*

***Jet kero only; totals no longer kept by API and DOE.*

Source: American Petroleum Institute.

traded crude in the Gulf area. In our Philadelphia refinery, we run foreign crude. The only overall crude cost advantage we have is one we planned for—our ability to process heavier sour crudes and thus our raw material costs are lower because sour crude is cheaper than sweet crude. On a quality-adjusted basis, we have no crude cost advantage.

I don't want to minimize the importance of having a stable supply of crude. The advantage we have in having North Slope crude and a high percentage of self-sufficiency in domestic crude is being able to plan consistently.

This is a tremendous advantage, but in no way is the downstream end of ARCO's business being used to monitize crude. There is no need to do that. Our Oil & Gas people can sell all the crude they produce for the same price that they are charging us, so there is no need to have a downstream operation to move crude through the system.

NPN: Competitors might have understood ARCO if its price cutting lasted a month, or two or three, enabling it to build volume. But 15 months doesn't make sense.

Babikian: As I stated earlier, ARCO has positioned itself as a brand price marketer. It is our intention to market a top quality major oil company gasoline at a "no frills" price. Our price will continue to reflect the fact that we do not offer credit and over 90% of our retail volume is sold through self-serve.

NPN: ARCO's cheap Alaska crude and pricing tactics are inviting government intervention.

Babikian: We are convinced that the manner in which our North Slope crude is priced is entirely correct, and we are equally convinced that our pricing tactics are not only entirely legal, but in tune with what the marketplace for the 1980s demands.

Price is the single most important ingredient in the marketing of gasoline today. Evidence of this is all over the place. As you remember, when *NPN* was extolling the virtues of self-serve back in the late-'60s, less than 10% of all gasoline sold in this country was sold via self-serve.

This year, somewhere around 71% to 72% of all gasoline sold in this country will be sold via self-serve. Why? Because self-serve means lower price, and the increased price sensitivity by the consumer is where we think the action is going to be.

Our critics have done their best in recent months to get the government involved in our business—so far, they haven't succeeded, and I do not believe the government will intervene because it is not right for them to do so.

C-Store Tie-In on Rise, But Station Still Tops

Despite the dramatic 160% rise in number of convenience stores selling gasoline from 1977 to 1982, conventional service stations continue to be the dominate type of U.S. gasoline outlet, according to a *Lundberg Letter* study and another similar report.

Lundberg's survey, based on refiner and marketer reports and "grass-roots" data, states that while the C-store trend is up, the "influence of C-store outlets has been somewhat overstated because total station population has been understated."

(The U.S. Bureau of the Census includes in its station count only those outlets which derive 50% or more of their income from petroleum products. Whereas, Lundberg's study includes all gasoline outlets, virtually regardless of petroleum product volume.) [NPN—Sept. '83, p12].

The 1977 Lundberg total is 263,348, or 49.2% bigger than the Census figure of 176,465. For 1982, Lundberg's 211,000-unit count dropped 29.4% from the 1977 tally, but it still totals over 66,000 more than the government's 1982 figures.

Another private-sector study tends to confirm the detailed findings of Lundberg. A portion of a National Petroleum Council survey of underground storage tanks led to a total gasoline unit count of roughly 211,000 also, says NPC. And, although the council would not release details of its findings in late September, NPC did indicate its breakdown of outlet by type tended to mirror that of Lundberg and additional sources. [See table.]

Conventional stations—those defined as providing "some degree" of automotive service, such as lube and oil change—number 93,400, says Lundberg. They accounted for about 44% of all gasoline outlets in 1982, versus a 50% share in 1977.

In addition to conventional outlets, the survey includes gasoline-only outlets, C-stores, automotive service facilities, car washes, department stores and truckstops. (Although Lundberg does include outlets owned by wholesalers—which the Census Bureau does not—it does not cover fleet fueling facilities.)

Despite numerical declines, service stations still comprise 44% of gasoline outlets.

Interestingly, while the number of "gas-only" outlets dropped some 22% to 62,300 in 1982 from 1977, they also dropped 1% in share of all gasoline outlet types by 1982—meaning more retailers operated with some kind of fuel tie-in than was the case in 1977.

Far more information is available on C-stores. Figures in a survey compiled by the National Assn. of Convenience Stores (NACS), indicate that of 51,150 C-stores in operation during 1982, 23,700 (or 46.3%) of them sold gasoline [NPN—March '83, p67]. Comparable figures from 1977 show 33,100 C-stores, 9,100 of which sold gasoline.

Of $37.2-billion in C-store sales in 1982, 35% consists of gasoline sales. And, the average C-store, according to NACS, pumped 38,000 gal. per month in 1982, a 4.1% increase over the previous

Retail Gasoline Outlets by Type

	1977	1982
Conventional service stations	132,000	93,400
Gasoline-only stations	80,200	62,300
Convenience stores	9,100	23,700
Automotive service	17,600	14,100
Car washes	16,600	11,100
Department stores	2,900	2,100
Truckstops	1,200	1,200
Miscellaneous	3,400	3,000
	263,000	210,000

Source: *Lundberg Letter*, National Assn. of Convenience stores, International Carwash Assn., and National Assn. of Truck Stop Operators.

ricultural-related businesses also were hurt by the drought," says the aide.

If the program becomes law, businesses proving direct losses from PIK would qualify for low-interest, 30-year federal loans. Jobbers could establish eligibility by comparing prior years' sales to sales during the PIK program, federal sources say.

In addition, the federal Small Business Administration (SBA) and the Farmers Home Loan Administration (FHLA) currently offer loan guarantee programs. Together they offered almost $3-billion in federal guarantees in 1983 to businesses unable to get a straight loan from a bank.

"We sent a communication out to people when PIK first came out that there may be some types of industries impacted adversely by this program," says a FHLA spokesman. "It was simply an effort to alert banks that people might be coming in looking for loans."

The Bank of America in San Francisco publicly announced it would offer loans to businesses hurt by PIK. And an American Bankers Assn. spokesman says many banks would be sympathetic to ailing rural jobbership.

Although some jobbers seem sympathetic toward farmers' financial woes, for many, it seems federal guarantees will not be enough to quell their indignation.

"See if the government will pay *us* for not selling *petroleum* products," said one Illinois jobber. —*Donna Lawrence*

Octane Ratings Down, But Outlook Is Up

Even though Sun, Texaco and others have introduced higher-octane gasolines in marketplaces last summer, the change of pace came much too late to have any impact on the winter 1982-83 octane report issued recently by the government.

The latest round-up showed that the average octane number for unleaded gasolines above 90 actually declined last winter—from the 91.7 level it held in the preceding two surveys to 91.5

On the other hand, leaded gasoline improved fractionally, moving up from 89.0 to 89.1 last winter.

There has been an uneasy feeling in the industry for some time that as competition tightens for gallonage, it might trigger an octane number contest somewhat akin to the promotional heydays of the '60s. But octane number increases are expensive—very expensive. So, this unquestionably has a dampening effect on such notions [NPN—July '83, p27].

The national average of 91.5 for unleaded gasoline can only be considered misleading, at best. Octanes generally run higher east of the Rockies, and most particularly on the Atlantic Seaboard. (Most are in the 92.0 to 93.0 range there.)

A number of gasolines, including Sun's and Texaco's, are known to be 93.5 octane or higher, either in selected markets or geographical areas of the East.

The impact of these figures undoubtedly will show up in the next government survey covering the summer of 1983. The samples already have been taken, but the processing and the cross-analysis by the Department of Energy's Bartlesville (Okla.) Energy Technology Center is a time-consuming affair.

The summer '83 report is not likely to be released until sometime next year, probably March. (At least the report will be dated March, but it may not begin to reach out into the industry until April or thereabouts due to slow-moving printing and distribution procedures.)

For the latest report, generally available by early September, 1,330 samples were taken in different parts of the country, reflecting the products of 28 different oil companies, large and small.

All of the samples are coded to mask the identities of the companies involved. The data were prepared by the Bartlesville Energy Center for the American Petroleum Institute. **NPN**

Octane Trends: Not Too Much Change

	Winter 1982-83	Summer 1982	Winter 1981-82	Summer 1981
Unleaded, 90.0 and above				
Research Method	96.3	96.8	96.6	96.3
Motor Method	86.7	86.6	86.8	86.2
R+M÷2	91.5	91.7	91.7	91.3
Unleaded, below 90.0				
Research Method	91.7	91.9	91.8	91.9
Motor Method	82.9	82.8	82.9	83.0
R+M÷2	87.3	87.3	87.4	87.4
Leaded, below 93.0				
Research Method	92.9	93.0	92.7	92.8
Motor Method	85.2	85.0	85.1	85.1
R+M÷2	89.1	89.0	88.9	89.0

District Reports for Last Winter

	Unleaded Gasoline Above 90			Leaded Gasoline Below 93		
	Research Method	Motor Method	R+M ÷ 2	Research Method	Motor Method	R+M ÷ 2
Northeast	96.7	87.0	91.8	93.6	85.5	89.6
Mid-Atlantic Coast	96.6	86.5	91.6	93.0	85.4	89.2
Southeast	96.2	86.8	91.6	92.9	85.2	89.1
Appalachian	95.9	86.6	91.3	92.7	85.6	89.2
Michigan	95.9	87.1	91.5	92.7	85.5	89.1
North Illinois	97.1	86.6	91.9	93.4	85.6	89.5
Central Mississippi	95.8	87.2	91.5	93.2	85.4	89.4
Lower Mississippi	96.4	87.0	91.8	92.6	85.6	89.2
North Plains	96.4	87.8	92.1	91.5	84.3	87.9
Central Plains	96.3	86.5	91.5	92.5	84.9	88.7
South Plains	96.9	86.4	91.7	93.4	85.7	89.5
South Texas	96.3	86.7	91.5	93.5	85.7	89.6
South Mountain States	96.6	85.8	91.2	92.0	84.6	88.3
North Mountain States	95.6	86.7	91.2	91.8	83.3	87.6
Pacific Northwest	95.8	87.2	91.6	93.5	85.3	89.4
North California	96.7	85.7	91.2	93.9	85.5	89.7
South California	96.2	86.2	91.2	93.6	85.5	89.6
U.S. Average						
Winter 1983-84	96.3	86.7	91.5	92.9	85.2	89.1
Minimum Samples	95.6	85.7	91.2	91.5	83.3	87.6
Maximum Samples	97.1	87.1	92.1	93.9	85.7	89.7
No. of Samples in Survey	—	—	31.8	—	—	52.0

Source: DOE, Bartlesville Energy Technology Center.

Erosion Continues in Lubricant Sales

Lube oil and grease sales skidded again in 1982 for the third consecutive year, almost in lock-step with declining gasoline consumption and a decelerating economy.

The sixth annual summary of lube oil sales from the National Petroleum Refiners Assn. states total lubricants—automotive oils, industrial oils and greases—dropped 8.3% in 1982, compared with decreases of 1.8% the year before and 8.6% in 1980. Sales are now down 19.2% from the peak year of 2.5-billion gal. in 1979.

Total sales in 1982 amounted to 2.0-billion gal.

Automotive oils, which include conventional engine oils, transmission and hydraulic fluids, and gear oils, totaled 1.2-billion gal. in 1982—3.1% less than in 1981 but 13.4% less than peak year 1979.

An interesting aspect of the 1982 survey is that automotive oils accounted for 60% of the year's total, versus 57% in the preceding year. The increase came mostly in the consumption of multigrade crank case oils.

NPRA says 101 companies participated in the 1982 survey. Not all companies have taken part each year, but at least 41 have so far. Sixteen others have participated in five out of the six studies.

Copies of the 1983 survey are available from NPRA in Washington at $10 each.

(Add 000 gal.)	1982	1981	1980	1979	1978
Automotive Oil	1,202,395	1,240,040	1,265,316	1,391,418	1,385,184
Industrial Oil	793,529	942,318	958,849	1,043,524	1,102,169
Total Oils	1,995,924	2,182,358	2,224,165	2,434,942	2,387,353
Automotive Grease (a)	21,107	22,347	25,533	22,427	—
Industrial Grease (a)	29,947	36,040	36,573	45,160	—
Unclassified Grease (a)	1,067	3,413	—	—	—
Total Greases (a)	52,122	61,800	62,106	67,587	—
Grand Total Lubricants	2,048,046	2,244,158	2,286,271	2,502,529	2,387,353
By-Products Aromatic Oils	94,307	107,682	104,635	132,680	121,463
Waxes	185,522	204,994	216,023	247,525	482,723

(a) Conversion from lbs. to gals. (7.5 lbs = 1 gal.)

Breakdown for Automotive Oil Sales

SAE J-183 Engine Oils					
Monograded	425,450	470,099	520,522	616,026	636,246
Multigraded	530,946	506,593	482,174	484,570	454,532
Subtotal	956,396	985,692	1,002,696	1,100,596	1,090,778
Non-SAE J-183 Engine Oils	20,962	23,034	24,429	28,580	32,003
Transmission & Hydraulic Fluids	180,341	181,092	189,731	207,361	217,159
Gear Oils	44,696	50,222	48,460	54,881	45,244
Total	1,202,395	1,240,040	1,265,316	1,391,418	1,385,184

Breakdown for Industrial Lube Sales

General Industrial Oils	333,730	409,707	419,811	457,555	425,420
Industrial Engine Oils	133,935	151,886	157,040	146,384	123,211
Metal Working Oils	77,308	89,838	90,801	105,165	109,722
Process Oils	248,536	290,887	291,197	334,420	343,766
Total	793,529	942,318	958,849	1,043,524	1,002,169

Source: NPRA, 1982 Report on Lubricating Oil Sales, September 1983.

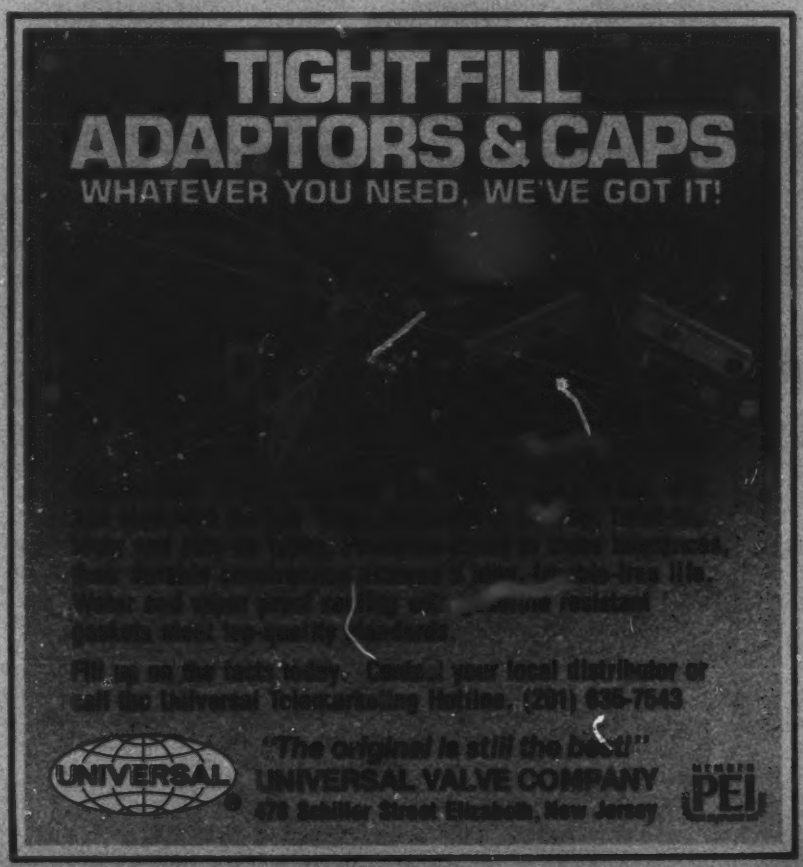
Indie sues Rasheed for $10.8-million

Southern indie Racetrac Petroleum Co. is seeking $10.8-million in damages stemming from alleged antitrust violations by Vic Rasheed, now executive director of Service Station Dealers Assn. of America, and 11 Maryland officials.

Racetrac, with 140 stations, filed its action in a Baltimore federal court against Rasheed and officials of Prince Georges County, Md., near Washington, D.C. The suit states that Rasheed, then head of the Greater Washington-Maryland Service Station Dealers Assn., blocked Racetrac's efforts to obtain permission to build a service station in Prince Georges County.

The company said that when it completed its surveys and traffic studies, it filed for various exceptions from county officials. It was turned down after Rasheed and the Greater Washington/Maryland association intervened. The county officials were said to have ruled that there was no need for any additional service station in the area.

Rasheed declined to comment on the suit. **MOM**



Jobbers Gain Toehold On Overcharge Refunds In Kansas Case Ruling

A federal judge in Wichita, Kan., has opened the door for jobbers to negotiate for a share of billions of dollars in crude oil overcharge refunds.

U.S. District Court Judge Frank Theis in September ruled that the Department of Energy must try to locate "victims" in the $1.2-billion Energy Reserves overcharge case, which involves a dispute between DOE and 21 crude oil producers over regs on low-production "stripper wells."

The judge referred the case to DOE's Office of Hearings and Appeals, ordering the agency to recommend a plan for distributing refunds within a year and to issue a progress report in six months. In turn, the escrow funds were ordered transferred to OHA last month for refund proceedings.

"We are very pleased with the decision," says Phil Chisholm of the National Oil Jobbers Council (NOJC). "In the past, jobbers mainly have concentrated on refined product overcharges, rather than on crude oil. DOE generally has shut jobbers out of crude oil negotiations, but this provides a forum for jobbers to make a case."

Although Chisholm says the ruling represents a "giant first step" toward reclaiming some of the money he believes jobbers have lost in overcharges, he admits the next step—providing proof that jobbers absorbed some of the overcharges—will be no easy task.

NOJC hopes to model its case after the refund formula adopted in the $100-million Amoco refined products decision [NPN—Feb. '83, p28]. In that case, jobbers were "presumed" injured and were not individually required to prove actual damages. To apply this model, however, thousands of jobbers will need to claim damages. Bassman & Mitchell, a Washington law firm representing NOJC, currently is aware of only 1,300 jobbers who claim to be adversely affected.

"We do not have a 'critical mass' yet," says Doug Mitchell, explaining that 12,000 jobber claims were filed in the Amoco case. There would need to be enough cases to convince OHA that it could not consider the cases on an individual basis, he says.

The decision contradicts another district ruling in the $1.6-billion Exxon overcharge case which maintained victims in crude overcharge cases are impossible to identify and that the entire refund should be distributed to state governments.

Judge Theis wrote that "an attempt must be made" to determine if *this* judge's ruling was premature.

The Exxon case was being appealed in October, and attorneys say they are uncertain how it will be affected by the Theis decision. NPN

Gasoline Yields Rise, But Resid Dips

American refineries eked out a bit more gasoline and a bit less residual fuel and petrochemical feedstocks per crude barrel in 1982 than they did in recent years.

Although product yields from an average barrel of crude have not changed significantly over the past four years, gasoline showed the most substantial increase in an American Petroleum Institute tally of average product yields for 16 product categories between 1979 and 1982. In 1982, 46.4% of the average barrel of crude refined in the U.S. went into gasoline production, up 1.6% from 1981.

Yields for resid and petrochemical feedstocks showed the most significant declines. In 1982, refineries produced an average 8.8% resid per barrel, down 1.6% from 1981 and 2.7% from 1979. Average feedstocks yield for 1982 was 3.6% per barrel, declining 1.1% from 1981 and 1.5% from 1980.

In recent years, U.S. refiners have been relying more heavily on high-sulfur, sour imported crude, which requires additional processing and produces less of the lighter oil products.

Product Yields from Crude Oil in the U.S.*

Product	1979	1980	1981	1982#
Gasoline	43.0%	44.5%	44.8%	46.4%
Jet Fuel	6.9	7.4	7.6	8.1
Ethane (incl. Ethylene)	0.1	—	0.1	—
Liquefied Gases	2.3	2.4	2.4	2.2
Kerosine	1.3	1.0	0.9	0.9
Distillate Fuel Oil	21.5	19.7	20.5	21.5
Residual Fuel Oil	11.5	11.7	10.4	8.8
Petrochemical Feedstocks	4.7	5.1	4.7	3.6
Special Naphthas	0.6	0.7	0.6	0.4
Lubricants	1.3	1.3	1.3	1.2
Wax 0.1	0.1	0.1	0.1	
Coke	2.6	2.7	3.1	3.4
Asphalt	3.1	2.9	2.7	2.7
Road Oil	—	0.I	—	—
Still Gas	3.8	4.0	4.3	4.4
Miscellaneous	0.8	0.8	0.7	0.7
Shortage (Processing Gain)	−3.6	−4.4	−4.2	−4.4
Total	100.0%	100.0%	100.0%	100.0%

*Other unfinished oils added to crude oil in computing yields.
#Latest year available.
Source: American Petroleum Institute and U.S. Energy Information Administration

Gulf Unites Refining, Marketing, Chemical Units

Gulf Oil Products Co. is the new name for all Gulf Oil Corp.'s downstream marketing and manufacturing operations. The latest turn of the wheel in the corporation's on-going streamlining program, the move reflects a merger of Gulf Refining & Marketing Co. and Gulf Chemical Co. into a single downstream entity.

Charles H. Bowman, 47, president of the old Gulf Refining & Marketing Co., heads up the new subsidiary, which will continue to be based in Houston, Texas. W.C. Rober, former president of the chemical company is senior vice president, responsible for refining, chemicals, supply and transportation.

Chairman James E. Lee, in announcing the consolidation and a series of administrative changes, said they will "allow us to integrate our manufacturing base while continuing our ongoing programs to become a stronger marketing company."

Some of the many changes underway at Gulf were outlined recently by Ron Hall, a former high-ranking Shell executive that Gulf lured over to its team as its senior vice president, marketing.

Lee announced that the corporate management team has been expanded to oversee operations.

The old senior group consisted of Lee, 61; E.B. Walker III, 61, president; M.J. Hill, 63, and H.H. Hammer, both executive vice presidents.

Added to the team were Bowman, 47; James L. Murdy, 45, a newly named executive vice president; J.L. Huitt, 60, president of Gulf Exploration & Production Co.; and H.I. Goodman, 60, president of Gulf Trading Co.

Murdy was the company's chief financial officer prior to his latest promotion. Financial circles regarded his elevation and that of Bowman as the development of a younger tier of executives to succeed the current group, all of whom are nearing retirement age. NPN

Fuel Oil Briefs

Carolina heating oil firm expands again

C. R. Mullis Oil & Heating Co., which has acquired no less than five oil companies in the Charlotte, N.C., area in the last 10 to 12 years, has expanded again with a new fully computerized office, warehouse and 80,000 gal. storage facility.

The building was dedicated formally in mid-July with appropriate drum beating to let the townspeople and the industry know about it. It is the first new commercial building in an area targeted for urban redevelopment.

Mullis, founded in 1947, now has 15 employees, two bulk plants, seven tank trucks, two service vans and a delivery truck. It's doing about $7.5-million annually in heating oils and gasoline, with more than a dozen suppliers taking care of its product needs.

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AGA Study: Oil-to-Gas Conversions Still Down

Conversions to natural gas in the residential space-heating field were down again in 1982 for the third year in a row, and are expected to slump even further before calendar year 1983 is over.

So says the American Gas Assn. in its 1982 Gas Househeating Survey.

AGA said conversions from other fuels to gas totaled 244,829 housing units in 1982—substantially below the anticipated figure of 303,800 projected in 1981. The 1982 total also was down 46% from 1981's near-record level of 451,612.

In its forecast for 1983, AGA said the gas utilities expected to convert 178,900 homes from other fuels by Dec. 31. This would be the lowest total in five years and far below the booming 500,000-plus level of the mid- and late-'70s.

AGA said the majority of the conversions were from oil to gas.

Despite the slump in conversions, gas continued to be the leading fuel for space-heating, the association said.

Gas, it said, served about 46.6-million homes in 1982—about 56% of the total market. Electricity had 15.9-million homes, or 29% of the market; fuel oil had 14.2-million homes, or 17% of the market; and other fuels had 7.1-million homes, or 8% of the total.

Fuel oil continued to be the leader in the Northeast, with a 48% market share compared to gas' 42%.

	Households (Add 000)	Market Share
Northeast	17,900	100%
Gas	7,500	42
Elec.	1,300	7
Oil	8,500	48
Other	600	3
N. Central	21,600	100
Gas	15,400	71
Elec.	2,200	10
Oil	2,300	11
Other	1,700	8
South	27,800	100
Gas	12,800	46
Elec.	8,600	31
Oil	2,800	10
Other	3,600	13
West	16,500	100
Gas	10,900	66
Elec.	3,800	23
Oil	600	4
Other	1,200	7

AGA notes: Households include single and multifamily; oil includes kerosine; Other includes coal, wood, LPG and solar. *NPN*

Marketers' Tax Corner

Irving L. Blackman is the senior tax partner at Blackman, Kallick & Co., Ltd., certified public accountants with offices in Chicago (180 North LaSalle St., Chicago, Ill. 60601), Miami and Houston. Blackman, also an attorney, author and seminar leader, and Daniel J. Fenain (his CPA partner specializing in oil jobbers) have established a hotline to answer the tax questions of *National Petroleum News* readers. Call Fenain at (312) 782-3424.

To Incorporate or Not to Incorporate?

The desire to be one's own boss has been and will continue to be the most infectious disease in the American economic system. It strikes young and old alike. But it's a delightful malady—only entrepreneurs catch it. Once afflicted, the new entrepreneur begins to ask an unending stream of questions.

To incorporate or not to incorporate? That is the question asked by most new business owners. From our viewpoint, there are two kinds of corporations—a regular corporation or an *S* corporation. Let's identify the single biggest difference between the two: A regular corporation pays tax on its profits, while an *S* corporation does not pay tax and is similar to a partnership, passing its profits or losses through to its stockholders.

Suppose you are about to start or have already started a new business. Even if everything goes well, the usual course of events is that losses precede the welcome arrival of profits. Whether or not the new business is your only business or one of many, this article spells out the tax-smart standard operating procedure for most new business starts.

While the venture is producing red ink results, the most important tax consideration is to get the maximum tax benefit out of the losses being produced. Either a sole proprietorship, partnership or *S* corporation can be used with equal effectiveness to funnel the losses to you. These losses can be used to reduce your other income. If you want to limit your personal liability, an *S* corporation is your best choice.

Finally, the painful incubation period ends—your fledgling business is turning a profit. Although there are some rare exceptions, profits mean doing business as a corporation. It's not only easy to incorporate, but you can incorporate a going business tax free.

If you want to divide the profits with members of your family, an *S* corporation is your answer. In all other cases, however, operating your profitable business as a regular corporation usually produces the best overall tax results. Why? The answer lies in the low corporate tax rates for earnings under $100,000.

For example, a regular corporation only pays $8,250 on its first $50,000 (less than 20%) of profit. Imagine, if you are in a 40% personal tax bracket, the same $50,000 in profits would cost you $20,000 in taxes. Some difference! If you are operating a profitable business, pencil out your potential savings with your accountant.

One warning: This article does not explore all of the rules and exceptions. See your professional tax advisor. Are you about to start a new venture? Send $19 for the special report: "Starting a New Business . . . 102 Tax-Saving Ideas to Make You Rich" to: Blackman, Kallick & Company, Ltd., 180 North LaSalle Street, Chicago, IL 60601.

Will Your Tax Return Be Audited?

What are the chances of you or your business being audited? The Commissioner of Internal Revenue recently revealed some interesting data. The schedule below shows the chances of a business return audit in 1982. For example, if your corporation had between $1,000,000 and $10,000,000 in assets, you were just about a one-to-eight shot for hosting an examining agent in 1982.

Non-Corporate Businesses (Based on Income)	Percent of Returns Examined
Under $25,000	1.68%
$25,000-$100,000	2.97
$100,000 and over	5.94
Corporations (Based on Assets)	
Under $100,000	2.79%
$100,000-$1 Million (M)	4.49
$1 M-$10 M	12.59
$10 M-$100 M	23.86
$100 M and over	66.73

Will the IRS audit your personal return? Many factors, including luck, bear on this question. The higher your income the better your chances. The IRS has released the breakdown on individual non-business tax returns subjected to examination. The following table reveals the percentage of returns examined by income for 1982.

Individuals—Nonbusiness (Based on total positive income)	Percent of Returns Examined
$10,000-$25,000 (with itemized deductions)	2.45%
$10,000-$25,000 (without itemized deductions)	.57
$25,000-$50,000	2.90
$50,000 and over	5.68

A computer system helps the IRS nail you if you forget to pick up an item of income. The IRS received about 664-million information documents in 1982, and intends to match about 82% against the corresponding tax returns.

Selling Off Assets Might Not Help Curb Losses at Year's End

It often is said that success depends not so much on what you do but rather, how you do it. A common error of a corporate business suffering an operating loss is to "save the year" by selling off an appreciated asset as a tax-free sale (because the loss offsets the profits on the sale).

But there is a better way. The objective is to carry back the operating losses against ordinary income of prior years and defer the long-term gain on the asset sale until the company has a profitable year. An example shows the way. Suppose your 1983 year-end will show an estimated loss of $100,000 from operations. You can carry back this loss to prior years (1980, 1981 and 1982 in that order), and you will receive a tax refund (as high as $46,000, depending on your tax bracket).

Now, suppose your corporation owns vacant land that will yield a $100,000 capital gains profit. Don't sell the land until your company is back in the black (say, 1984). A sale in 1984 will result in the $100,000 gain receiving the benefits of the favorable capital gains rates (maximum rate of 28%).

One final hint: If you need the cash the land sale will generate, borrow against the land. The loan and repayment are tax-free transactions. If you have a buyer, make the sale, but don't close until 1984.